

Introduced by Committee on Governance and Finance (Senators Wolk (Chair), Beall, DeSaulnier, Hernandez, Knight, Liu, and Vidak)

March 13, 2014

An act to amend Sections 15432, 15441, 15443, 15445, and 15455 of, and to add Section 15442.1 to, the Government Code, relating to health facilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1463, as introduced, Committee on Governance and Finance. California Health Facilities Financing Authority.

The California Health Facilities Financing Authority Act authorizes the California Health Facilities Financing Authority to, among other things, make loans from the continuously appropriated California Health Facilities Financing Authority Fund to participating health institutions for financing or refinancing the acquisition, construction, or remodeling of health facilities. The act authorizes the authority to issue its negotiable revenue bonds in order to provide funds for achieving any of its purposes under the act. The act provides that these revenue bonds shall be deemed negotiable instruments notwithstanding that they may be payable from a special fund and requires that those bonds contain on their face a statement to the effect that neither the state nor the authority are obligated to pay the principal of, or interest on, the bond, except from revenues from the authority.

This bill would instead authorize the authority to issue its revenue bonds, regardless of whether they are negotiable, in order to provide funds for achieving any of its purposes under the act, and would provide that negotiable bonds shall be deemed to be negotiable instruments for all purposes notwithstanding that they may be payable from a special

fund. The bill would also eliminate the requirement that the statement regarding the obligation of the state or the authority to pay the principal of, or interest on, the revenue bond appear on the face of the bond. To the extent the bill would increase deposits and expenditures of moneys in a continuously appropriated fund, the bill would make an appropriation.

Existing law authorizes revenue bonds issued pursuant to the act to be secured by a specified trust agreement or indenture. The act authorizes indentures, trust agreements, or resolutions for issuance of these bonds to contain provisions for protecting and enforcing the rights and remedies of the bondholders, as specified.

This bill would authorize any provision that the authority may include in a trust agreement or resolution to alternatively be included in a bond with the same effect.

The act defines a revenue bond to include a bond, warrant, note, lease, or installment sale obligation that is evidenced by a certificate of participation or other evidence of indebtedness issued by the authority. The act specifies that all moneys received pursuant to the act, whether as proceeds from the sale of revenue bonds or as revenues, shall be deemed to be trust funds held and applied solely as provided in the act.

This bill would specify that those moneys also include moneys received as proceeds from incurring revenue bonds pursuant to the act.

The bill would make other technical changes to the provisions governing the authority.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15432 of the Government Code is
- 2 amended to read:
- 3 15432. As used in this part, the following words and terms
- 4 shall have the following meanings, unless the context clearly
- 5 indicates or requires another or different meaning or intent:
- 6 (a) "Act" means the California Health Facilities Financing
- 7 Authority Act.
- 8 (b) "Authority" means the California Health Facilities Financing
- 9 Authority created by this part or any board, body, commission,
- 10 department, or officer succeeding to the principal functions thereof

1 or to which the powers conferred upon the authority by this part
2 shall be given by law.

3 (c) “Cost,” as applied to a project or portion of a project financed
4 under this part, means and includes all or any part of the cost of
5 construction and acquisition of all lands, structures, real or personal
6 property, rights, rights-of-way, franchises, easements, and interests
7 acquired or used for a project, the cost of demolishing or removing
8 any buildings or structures on land so acquired, including the cost
9 of acquiring any lands to which those buildings or structures may
10 be moved, the cost of all machinery and equipment, financing
11 charges, interest prior to, during, and for a period not to exceed
12 the later of one year or one year following completion of
13 construction, as determined by the authority, the cost of insurance
14 during construction, the cost of funding or financing noncapital
15 expenses, reserves for principal and interest and for extensions,
16 enlargements, additions, replacements, renovations and
17 improvements, the cost of engineering, service contracts,
18 reasonable financial and legal services, plans, specifications,
19 studies, surveys, estimates, administrative expenses, and other
20 expenses of funding or financing, that are necessary or incident to
21 determining the feasibility of constructing any project, or that are
22 incident to the construction, acquisition, or financing of any project.

23 (d) “Health facility” means ~~any~~ a facility, place, or building that
24 is licensed, accredited, or certified and organized, maintained, and
25 operated for the diagnosis, care, prevention, and treatment of
26 human illness, or physical, mental, or developmental disability,
27 including convalescence and rehabilitation and including care
28 during and after pregnancy, or for any one or more of these
29 purposes, for one or more persons, and includes, but is not limited
30 to, all of the following types:

31 (1) A general acute care hospital that is a health facility having
32 a duly constituted governing body with overall administrative and
33 professional responsibility and an organized medical staff that
34 provides 24-hour inpatient care, including the following basic
35 services: medical, nursing, surgical, anesthesia, laboratory,
36 radiology, pharmacy, and dietary services.

37 (2) An acute psychiatric hospital that is a health facility having
38 a duly constituted governing body with overall administrative and
39 professional responsibility and an organized medical staff that
40 provides 24-hour inpatient care for mentally disordered,

1 incompetent, or other patients referred to in Division 5
2 (commencing with Section 5000) or Division 6 (commencing with
3 Section 6000) of the Welfare and Institutions Code, including the
4 following basic services: medical, nursing, rehabilitative,
5 pharmacy, and dietary services.

6 (3) A skilled nursing facility that is a health facility that provides
7 the following basic services: skilled nursing care and supportive
8 care to patients whose primary need is for availability or skilled
9 nursing care on an extended basis.

10 (4) An intermediate care facility that is a health facility that
11 provides the following basic services: inpatient care to ambulatory
12 or semiambulatory patients who have recurring need for skilled
13 nursing supervision and need supportive care, but who do not
14 require availability or continuous skilled nursing care.

15 (5) A special health care facility that is a health facility having
16 a duly constituted governing body with overall administrative and
17 professional responsibility and an organized medical or dental staff
18 that provides inpatient or outpatient, acute or nonacute care,
19 including, but not limited to, medical, nursing, rehabilitation,
20 dental, or maternity.

21 (6) A clinic that is operated by a tax-exempt nonprofit
22 corporation that is licensed pursuant to Section 1204 or 1204.1 of
23 the Health and Safety Code or a clinic exempt from licensure
24 pursuant to subdivision (b) or (c) of Section 1206 of the Health
25 and Safety Code.

26 (7) An adult day health center that is a facility, as defined under
27 subdivision (b) of Section 1570.7 of the Health and Safety Code,
28 that provides adult day health care, as defined under subdivision
29 (a) of Section 1570.7 of the Health and Safety Code.

30 (8) ~~Any~~ A facility owned or operated by a local jurisdiction for
31 the provision of county health services.

32 (9) A multilevel facility is an institutional arrangement where
33 a residential facility for the elderly is operated as a part of, or in
34 conjunction with, an intermediate care facility, a skilled nursing
35 facility, or a general acute care hospital. "Elderly," for the purposes
36 of this paragraph, means a person 62 years of age or older.

37 (10) A child day care facility operated in conjunction with a
38 health facility. A child day care facility is a facility, as defined in
39 Section 1596.750 of the Health and Safety Code. For purposes of

1 this paragraph, “child” means a minor from birth to 18 years of
2 age.

3 (11) An intermediate care facility/developmentally disabled
4 habilitative that is a health facility, as defined under subdivision
5 (e) of Section 1250 of the Health and Safety Code.

6 (12) An intermediate care facility/developmentally
7 disabled-nursing that is a health facility, as defined under
8 subdivision (h) of Section 1250 of the Health and Safety Code.

9 (13) A community care facility that is a facility, as defined under
10 subdivision (a) of Section 1502 of the Health and Safety Code,
11 that provides care, habilitation, rehabilitation, or treatment services
12 to developmentally disabled or mentally impaired persons.

13 (14) A nonprofit community care facility, as defined in
14 subdivision (a) of Section 1502 of the Health and Safety Code,
15 other than a facility that, as defined in that subdivision, is a
16 residential facility for the elderly, a foster family agency, a foster
17 family home, a full service adoption agency, or a noncustodial
18 adoption agency.

19 (15) A nonprofit accredited community work activity program,
20 as specified in subdivision (e) of Section 4851 and Section 4856
21 of the Welfare and Institutions Code.

22 (16) A community mental health center, as defined in paragraph
23 (3) of subdivision (b) of Section 5667 of the Welfare and
24 Institutions Code.

25 (17) A nonprofit speech and hearing center, as defined in Section
26 1201.5 of the Health and Safety Code.

27 (18) A blood bank, as defined in Section 1600.2 of the Health
28 and Safety Code, licensed pursuant to Section 1602.5 of the Health
29 and Safety Code, and exempt from federal income taxation
30 pursuant to Section 501(c)(3) of the Internal Revenue Code.

31 (19) A residential facility for persons with developmental
32 disabilities, as defined in Sections 4688.5 and 4688.6 of the
33 Welfare and Institutions Code, which includes, but is not limited
34 to, a community care facility licensed pursuant to Section 1502 of
35 the Health and Safety Code and a family teaching home as defined
36 in Section 4689.1 of the Welfare and Institutions Code.

37 (20) A nonpublic school that provides educational services in
38 conjunction with a health facility, as defined in paragraphs (1) to
39 (19), inclusive, that otherwise qualifies for financing pursuant to
40 this part, if the nonpublic school is certified pursuant to Sections

1 56366 and 56366.1 of the Education Code as meeting standards
2 relating to the required special education and specified related
3 services and facilities for individuals with physical, mental, or
4 developmental disabilities.

5 “Health facility” includes a clinic that is described in subdivision
6 (l) of Section 1206 of the Health and Safety Code.

7 “Health facility” includes information systems equipment and
8 the following facilities, if the equipment and facility is operated
9 in conjunction with or to support the services provided in one or
10 more of the facilities specified in paragraphs (1) to (20), inclusive,
11 of this subdivision: a laboratory, laundry, a nurses or interns
12 residence, housing for staff or employees and their families or
13 patients or relatives of patients, a physicians’ facility, an
14 administration building, a research facility, a maintenance, storage,
15 or utility facility, an information systems facility, all structures or
16 facilities related to any of the foregoing facilities or required or
17 useful for the operation of a health facility and the necessary and
18 usual attendant and related facilities and equipment, and parking
19 and supportive service facilities or structures required or useful
20 for the orderly conduct of the health facility.

21 “Health facility” does not include any institution, place, or
22 building used or to be used primarily for sectarian instruction or
23 study or as a place for devotional activities or religious worship.

24 (e) “Participating health institution” means a city, city and
25 county, or county, a district hospital, or a private nonprofit
26 corporation or association, or a limited liability company whose
27 sole member is a nonprofit corporation or association authorized
28 by the laws of this state to provide or operate a health facility or
29 a nonprofit corporation that controls or manages, is controlled or
30 managed by, is under common control or management with, or is
31 affiliated with any of the foregoing, and that, pursuant to this part,
32 undertakes the financing or refinancing of the construction or
33 acquisition of a project or of working capital as provided in this
34 part. “Participating health institution” also includes, for purposes
35 of the California Health Facilities Revenue Bonds (UCSF-Stanford
36 Health Care) 1998 Series A, the Regents of the University of
37 California.

38 (f) “Project” means construction, expansion, remodeling,
39 renovation, furnishing, or equipping, or funding, financing, or
40 refinancing of a health facility or acquisition of a health facility

1 to be financed or refinanced with funds provided in whole or in
2 part pursuant to this part. “Project” may include reimbursement
3 for the costs of construction, expansion, remodeling, renovation,
4 furnishing, or equipping, or funding, financing, or refinancing of
5 a health facility or acquisition of a health facility. “Project” may
6 include any combination of one or more of the foregoing
7 undertaken jointly by any participating health institution with one
8 or more other participating health institutions.

9 (g) “Revenue bond” or “bond” means ~~any~~ a bond, warrant,
10 note, lease, or installment sale obligation that is evidenced by a
11 certificate of participation or other evidence of indebtedness issued
12 by the authority.

13 (h) “Working capital” means moneys to be used by, or on behalf
14 of, a participating health institution to pay or prepay maintenance
15 or operation expenses or any other costs that would be treated as
16 an expense item, under generally accepted accounting principles,
17 in connection with the ownership or operation of a health facility,
18 including, but not limited to, reserves for maintenance or operation
19 expenses, interest for not to exceed one year on any loan for
20 working capital made pursuant to this part, and reserves for debt
21 service with respect to, and any costs necessary or incidental to,
22 that financing.

23 SEC. 2. Section 15441 of the Government Code is amended
24 to read:

25 15441. (a) The authority is authorized, from time to time, to
26 issue its ~~negotiable~~ revenue bonds in order to provide funds for
27 achieving any of its purposes under this part.

28 (b) Except as may otherwise be expressly provided by the
29 authority, each of its revenue bonds shall be payable from any
30 revenues or moneys of the authority available therefor and not
31 otherwise pledged, subject only to any agreements with the holders
32 of particular bonds or notes pledging any particular revenues or
33 moneys. ~~Notwithstanding that these revenue bonds may be payable~~
34 ~~from a special fund, they~~ *Negotiable bonds* shall be and be deemed
35 to be for all purposes negotiable instruments, *notwithstanding that*
36 *these bonds may be payable from a special fund*, subject only to
37 the provisions of these bonds for registration.

38 (c) The authority’s revenue bonds may be issued as serial bonds
39 or as term bonds, or the authority, in its discretion, may issue bonds
40 of both types. The issuance of all revenue bonds shall be authorized

1 by resolution of the authority and shall bear such date or dates,
2 mature at such time or times, not exceeding 40 years from their
3 respective dates, bear interest at such rate or rates, be payable at
4 such time or times, be in such denominations, be in such form,
5 either coupon or registered, carry such registration privileges, be
6 executed in such manner, be payable in lawful money of the United
7 States of America at such place or places, and be subject to such
8 terms of redemption, as the indenture, trust agreement, or resolution
9 relating to these revenue bonds may provide. The authority's
10 revenue bonds or notes may be sold by the Treasurer at public or
11 private sale, after giving due consideration to the recommendation
12 of the participating health institution, for the price or prices and
13 upon the terms and conditions as the authority shall determine.
14 The Treasurer may sell these revenue bonds at a price below the
15 par value thereof. However, the discount on any bonds so sold
16 shall not exceed 6 percent of the par value thereof, except in the
17 case of any bonds payable in whole or in part from moneys held
18 under one or more outstanding resolutions or indentures. Pending
19 preparation of the definitive bonds, the authority may issue interim
20 receipts or certificates or temporary bonds which shall be
21 exchanged for such definitive bonds.

22 (d) ~~Any~~ A resolution or resolutions authorizing the issuance of
23 any revenue bonds or any issue of revenue bonds may contain
24 provisions, which shall be a part of the contract with the holders
25 of the bonds to be authorized, as to pledging all or any part of the
26 revenues of a project or any revenue-producing contract or
27 contracts made by the authority with ~~any~~ an individual, partnership,
28 corporation or association or other body, public or private, to secure
29 the payment of the bonds or of ~~any~~ a particular issue of bonds.

30 (e) Neither the members of the authority nor any person
31 executing the revenue bonds shall be liable personally on the bonds
32 or be subject to any personal liability or accountability by reason
33 of the issuance thereof.

34 (f) The authority may purchase its bonds with any moneys
35 available to the authority for this purpose. The authority may
36 exchange bonds for its bonds. The authority may hold, pledge,
37 exchange, cancel, or resell these bonds, subject to and in
38 accordance with its agreements with bondholders.

39 SEC. 3. Section 15442.1 is added to the Government Code, to
40 read:

1 15442.1. Any provision that the authority may include in a
2 trust agreement, indenture, or resolution pursuant to this part may
3 alternatively be included in a bond with the same effect.

4 SEC. 4. Section 15443 of the Government Code is amended
5 to read:

6 15443. Revenue bonds issued under the provisions of this part
7 shall not be deemed to constitute a debt or liability of the state or
8 of ~~any~~ a political subdivision thereof or a pledge of the faith and
9 credit of the state or of ~~any such~~ that political subdivision, other
10 than the authority, but shall be payable solely from the funds herein
11 provided. ~~All such~~ These bonds shall contain ~~on the face thereof~~
12 a statement to the effect that neither the State of California nor the
13 authority shall be obligated to pay the principal of, or the interest
14 thereon, except from revenues of the authority, and that neither
15 the faith and credit nor the taxing power of the State of California
16 or of ~~any~~ a political subdivision thereof is pledged to the payment
17 of the principal of or the interest on ~~such~~ these bonds. The issuance
18 of revenue bonds under the provisions of this part shall not directly
19 or indirectly or contingently obligate the state or ~~any~~ a political
20 subdivision thereof to levy or to pledge ~~any~~ a form of taxation
21 whatever therefor or to make ~~any~~ an appropriation for their
22 payment.

23 SEC. 5. Section 15445 of the Government Code is amended
24 to read:

25 15445. All moneys received pursuant to this part, whether as
26 proceeds from ~~the sale of~~ selling or incurring revenue bonds or as
27 revenues, shall be deemed to be trust funds to be held and applied
28 solely as provided in this part. Until the funds are applied as
29 provided in this part, and notwithstanding any other provision of
30 law, the moneys may be invested in any obligations or securities
31 authorized by resolutions of the authority authorizing the issuance
32 of the bonds. Any officer with whom, or any bank or trust company
33 with which, the moneys are deposited shall act as trustee of the
34 moneys and shall hold and apply the moneys for the purposes
35 hereof, subject to any regulations adopted pursuant to this part and
36 the resolution authorizing the issuance of the bonds or the indenture
37 or trust agreement securing the bonds.

38 SEC. 6. Section 15455 of the Government Code is amended
39 to read:

1 15455. (a) This part shall be deemed to provide a complete,
2 additional, and alternative method for doing the things authorized
3 by this part, and shall be regarded as supplemental and additional
4 to powers conferred by other laws. The issuance of bonds and
5 refunding bonds under this ~~chapter~~ *part* need not comply with any
6 other law applicable to the issuance of bonds, including, but not
7 limited to, Division 13 (commencing with Section 21000) of the
8 Public Resources Code.

9 (b) Except as provided in subdivision (a), the financing of a
10 project pursuant to this part shall not exempt a project from any
11 requirement of law that is otherwise applicable to the project, and
12 the applicant shall provide documentation, before the authority
13 approves the issuance of bonds for the project, that the project has
14 complied with Division 13 (commencing with Section 21000) of
15 the Public Resources Code, or is not a project under that division.